

Assembly Bill No. 2224

Passed the Assembly May 17, 2004

Chief Clerk of the Assembly

Passed the Senate August 10, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 17557, 17558, 17558.5, and 17561 of, and to add Section 17572 to, the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2224, Cohn. State mandates: reimbursement.

Existing law requires the Commission on State Mandates to adopt parameters and guidelines for reimbursement of claims by local agencies and school districts for state mandates pursuant to statute. Existing law authorizes a local agency, school district, or the state to file a claim asking the commission to amend, modify, or supplement the parameters and guidelines.

This bill would require that a claim to change the parameters and guidelines be in writing and filed within a specified time. It would authorize the commission to amend, modify, or supplement the parameters and guidelines after public notice and hearing on the claim seeking the change.

Existing law provides that a reimbursement claim for actual state-mandated costs filed by a local agency or school district is subject to the initiation of an audit by the Controller no later than 3 years after the date that the actual reimbursement claim is filed or last amended, whichever is later. If no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit commences to run from the date of initial payment of the claim.

This bill would authorize the Controller to conduct a field review of any claim after the claim has been submitted, prior to the reimbursement of the claim. It also would provide that any audit shall be completed no later than 2 years after the date that the audit is commenced.

Existing law imposes prescribed requirements on public agencies relative to the impounding, holding, and adoption of stray animals, which the commission has determined constitute a state-mandated local program.

This bill would require the commission to amend the parameters and guidelines for this Animal Adoption mandate, as specified.



This bill would make other technical, conforming changes to these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 17557 of the Government Code is amended to read:

17557. (a) If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvented to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 30 days of adoption of a statement of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 30-day period at any time prior to its adoption of the parameters and guidelines. If proposed parameters and guidelines are not submitted within the 30-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 30-day period is justified.

(b) In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance that would provide for reimbursement of each local agency or school district of a specified amount each year.

(c) The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred. However, the commission may not specify in the parameters and guidelines any fiscal year for which payment could be provided in the annual Budget Act.

(d) A local agency, school district, or the state may file a written request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines. A parameters and guidelines amendment submitted



within 90 days of the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, and on or before January 15 following a fiscal year, shall establish reimbursement eligibility for that fiscal year.

(e) A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. The claimant may thereafter amend the test claim at any time prior to a commission hearing on the claim without affecting the original filing date if the amendment substantially relates to the original test claim.

SEC. 2. Section 17558 of the Government Code is amended to read:

17558. (a) The commission shall submit the adopted parameters and guidelines to the Controller. All claims relating to a statute or executive order that are filed after the adoption or amendment of parameters and guidelines pursuant to Section 17557 shall be transferred to the Controller who shall pay and audit the claims from funds made available for that purpose.

(b) Not later than 60 days after receiving the adopted parameters and guidelines from the commission, the Controller shall issue claiming instructions for each mandate that requires state reimbursement, to assist local agencies and school districts in claiming costs to be reimbursed. In preparing claiming instructions, the Controller may request the assistance of other state agencies. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the commission.

(c) The Controller shall, within 60 days after receiving revised adopted parameters and guidelines from the commission or other information necessitating a revision of the claiming instructions, prepare and issue revised claiming instructions for mandates that require state reimbursement that have been established by commission action pursuant to Section 17555 or after any decision or order of the commission pursuant to Section 17551. In preparing revised claiming instructions, the Controller may request the assistance of other state agencies.



SEC. 3. Section 17558.5 of the Government Code is amended to read:

17558.5. (a) A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed no later than two years after the date that the audit is commenced.

(b) The Controller may conduct a field review of any claim after the claim has been submitted, prior to the reimbursement of the claim.

(c) The Controller shall notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment to a claim for reimbursement that results from an audit or review. The notification shall specify the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the local agency or school district, and the reason for the adjustment. Remittance advices and other notices of payment action shall not constitute notice of adjustment from an audit or review.

(d) The interest rate charged by the Controller on reduced claims shall be set at the Pooled Money Investment Account rate and shall be imposed on the dollar amount of the overpaid claim from the time the claim was paid until overpayment is satisfied.

(e) Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement.

SEC. 4. Section 17561 of the Government Code is amended to read:

17561. (a) The state shall reimburse each local agency and school district for all “costs mandated by the state,” as defined in Section 17514.



(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill that is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 that includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall pay any eligible claim pursuant to this section within 60 days after the filing deadline for claims for reimbursement or 15 days after the date the appropriation for the claim is effective, whichever is later. The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies that would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies and school districts pursuant to Section 17558. Issuance of the claiming



instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the commission.

(A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17555 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions.

(B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller.

(C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim that the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.

(3) When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. All initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late claim penalty. Any claim for



initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed. The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case may a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the Controller's claiming instructions on funded mandates contained in a claims bill.

SEC. 5. Section 17572 is added to the Government Code, to read:

17572. (a) The commission shall amend the parameters and guidelines for the state-mandated local program contained in Chapter 752 of the Statutes of 1998, known as the Animal Adoption mandate (Case No. 98-TC-11), as specified below:

(1) Amend the formula for determining the reimbursable portion of acquiring or building additional shelter space that is larger than needed to comply with the increased holding period to specify that costs incurred to address preexisting shelter overcrowding or animal population growth are not reimbursable.

(2) Clarify how the costs for care and maintenance shall be calculated.

(3) Detail the documentation necessary to support reimbursement claims under this mandate, in consultation with the Bureau of State Audits and the Controller's office.

(b) The parameters and guidelines, as amended pursuant to this section, shall apply to claims for costs incurred in fiscal years commencing with the 2005–06 fiscal year in which Chapter 752 of the Statutes of 1998 is not suspended pursuant to Section 17581.

(c) Before funds are appropriated to reimburse local agencies for claims related to costs incurred in fiscal years commencing with the 2005–06 fiscal year pursuant to Sections 1834 and 1846 of the Civil Code, and Sections 31108, 31752, 31752.5, 31753, 32001, and 32003 of the Food and Agricultural Code, known as the Animal Adoption mandate, local agencies shall file reimbursement claims pursuant to the parameters and guidelines amended pursuant to this section, and the Controller's revised claiming instructions.



Approved _____, 2004

Governor

